

AT AN ADJOURNED MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTGOMERY, VIRGINIA HELD ON THE 27TH DAY OF SEPTEMBER, 2010 AT 6:30 P.M. IN THE BOARD CHAMBERS, MONTGOMERY COUNTY GOVERNMENT CENTER, 755 ROANOKE STREET, CHRISTIANSBURG, VIRGINIA:

PRESENT:	Annette S. Perkins	-Chair
	James D. Politis	-Vice Chair
	Mary W. Biggs	-Supervisors
	William H. Brown	
	Gary D. Creed	
	Doug Marrs	
	John A. Muffo	
	F. Craig Meadows	-County Administrator
	L. Carol Edmonds	-Assistant County Administrator
	Martin M. McMahon	-County Attorney
	Brian Hamilton	-Economic Development Director
	Vickie L. Swinney	-Secretary, Board of Supervisors

CALL TO ORDER

The Chair called the meeting to order.

ADD TO THE AGENDA – CLOSED MEETING

On a motion by William H. Brown, seconded by James D. Politis and carried unanimously, the following addendum was added to the agenda under Closed Meeting:

Section 2.2-3711 (7) Consultation with Legal Counsel and Briefings from Staff Members or Consultants Pertaining to Actual or Probable Litigation, Where Such Consultation or Briefing in Open Meeting Would Adversely Affect the Negotiating or Litigating Posture of the Public Body; and Consultation with Legal Counsel Employed or Retained by a Public Body Regarding Specific Legal Matters Requiring Provision of Legal Advice by Such Counsel

1. Writ of Election – Commissioner of the Revenue

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
John A. Muffo	None
Doug Marrs	
Mary W. Biggs	
James D. Politis	
William H. Brown	
Gary D. Creed	
Annette S. Perkins	

INTO CLOSED MEETING

On a motion by William H. Brown, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

Section 2.2-3711 (5) Discussion Concerning a Prospective Business or Industry or the Expansion of an Existing Business or Industry Where No Previous Announcement Has Been Made of the Business or Industry's Interest in Locating or Expanding Its Facilities in the Community.

1. Project # 2010024

(3) Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of the Disposition of Publicly Held Real Property, Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiating Strategy of the Public Body

1. Courthouse Property

(1) Discussion, Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of Any Public Body

1. County Attorney's Annual Review

- (7) Consultation with Legal Counsel and Briefings from Staff Members or Consultants Pertaining to Actual or Probable Litigation, Where Such Consultation or Briefing in Open Meeting Would Adversely Affect the Negotiating or Litigating Posture of the Public Body; and Consultation with Legal Counsel Employed or Retained by a Public Body Regarding Specific Legal Matters Requiring Provision of Legal Advice by Such Counsel

1. Writ of Election – Commissioner of the Revenue

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Gary D. Creed	None
William H. Brown	
James D. Politis	
Mary W. Biggs	
Doug Marrs	
John A. Muffo	
Annette S. Perkins	

OUT OF CLOSED MEETING

On a motion by William H. Brown, seconded by James D. Politis and carried unanimously,

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
William H. Brown	None
James D. Politis	
Mary W. Biggs	
Doug Marrs	
John A. Muffo	
Gary D. Creed	
Annette S. Perkins	

CERTIFICATION OF CLOSED MEETING

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously,

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

VOTE

AYES

James D. Politis
Mary W. Biggs
Doug Marrs
John A. Muffo
Gary D. Creed
William H. Brown
Annette S. Perkins

NAYS

None

ABSENT DURING VOTE

None

ABSENT DURING MEETING

None

INVOCATION

A moment of silence was lead by the Chair.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

PUBLIC HEARING

Special Use Permit - Joseph & Elizabeth Maxwell- Telecommunication Tower – CONTINUE TO OCTOBER 24, 2010

A request by Joseph & Elizabeth Maxwell (Agent: Rich Rosenfeld) for a special use permit on 25.12 acres in a General Business (GB) zoning district to allow a 199 ft. telecommunication tower. The property is located at 1485 Harding Road, approximately 350 feet south of the intersection with Fleets Way (private), and is identified as Tax Parcel No. 041-A-60 (Acct # 012046) in the Mount Tabor Magisterial District (District A). The property currently lies in an area designated as Residential Transition in the 2025 Comprehensive Plan.

The Chair advised that while the public hearing is continued in order for additional information to be received, the public hearing is open for any public comments.

There being no speakers, the public hearing was continued to October 25, 2010.

Agricultural and Forestal District (AFD) -6 Addition – Macon C. Sammons

A request by Macon C. Sammons to add approximately 20.377 acres to existing Agricultural and Forestal District – 6 (AFD-6), which consists of 1,329 acres and 11 property owners. The property is located on Hurst Road (SR 782) and is further identified as tax map parcels 097-A-122 and 097-A-121 (Acct. No's: 020096 and 020097) in the Shawsville Magisterial District (District C). The property currently lies in an area designated as Rural in the Comprehensive Plan.

Planning Director Steve Sandy provided a summary of the request. Mr. Sammons currently has 483 acres in the AFD-6 and would like to add an additional 20.377 acres. The AFD-6 was originally established in 1981 and was last renewed in 2009 with 1339 acres. The AFD-6 is up for renewal in 2017. Additional landowners may request to be added to an existing AFD on a yearly basis.

The AFD Advisory Committee reviewed this request at their August 24, 2010 meeting and recommended approval of the addition.

At their September 8, 2010 meeting, the Planning Commission also recommended the approval of the addition of 20.377 acres to the AFD-6.

There being no speakers, the public hearing was closed.

REMOVE FROM THE AGENDA - WORK SESSION

The work session scheduled for tonight's meeting to discuss Reassessment and Land Use Changes was removed from the agenda and will be placed on the Board's October 4, 2010 agenda.

PUBLIC ADDRESS

Chair Perkins stated the Board of Supervisors received a letter from Virginia Tech President Charles Steger which she read into the record:



Charles W. Steger, President

210 Burruss Hall (0131)
Blacksburg, Virginia 24061
540/231-6231 Fax: 540/231-4265
www.president.vt.edu president@vt.edu

September 27, 2010

Montgomery County Board of Supervisors
Montgomery County Government Center
755 Roanoke Street, Suite 2E
Christiansburg, VA 24073-3181
swinneyvi@montgomerycountyva.gov

Dear Members of the Board:

The Montgomery County schools are an important and vital component of working and living here. We appreciate and value the quality schools that you, the school board, district administrators, and especially our dedicated teachers, have built over the years. We are fortunate to have excellent, highly respected schools. They are essential to our special Southwest Virginia quality of life. Indeed, the schools for many years have been a key factor in the Virginia Tech employment recruitment formula. The schools are fundamentally linked to our ability to attract world-class faculty to our region.

We are beginning to see evidence that the current situation concerning the future of the Blacksburg High School may be having a deleterious effect on perceptions about the county's commitment to top-quality schools. Some of our faculty members have expressed these concerns to me, to our chief academic officer, and to our deans. We already have lost a senior executive candidate we recruited. We also know of a senior distinguished academic leader within the university who has accepted a recruitment interview at another school. Losing this individual would be a serious concern. It is troubling that this person did so in part because of the school situation.

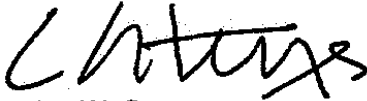
We are particularly worried about what we don't know. How many more candidates simply will not bother to apply? Hiring at Virginia Tech is a decentralized process; we don't have a pipeline to the candidates. But we are hearing lots of discussion, and the perceptions could cast doubts and do damage to our reputation for excellence.

We are also aware of prospective business owners and entrepreneurs who had considered the Virginia Tech Corporate Research Center, but now have second thoughts or crossed us off their lists.

It is not our place to advise you on taxation policy, the shape or form of the schools, or the decision itself. But it is incumbent upon us to convey our real and serious concerns about emerging perceptions toward Montgomery County schools. We believe you would want to know. Most importantly, there was no process afforded us or the citizens of the community – thousands of whom are employed at Virginia Tech – to have our voices heard.

Accordingly, we ask that you reopen your fact gathering and decision making process to fully vet citizen concerns, restore confidence in the process, and fully understand the implications on company or university employment, business recruitment, and our quality of life. The decisions you make about the schools in the county significantly affect our ability to attract and retain employees, and we sincerely ask that you fully explore all the available options.

Sincerely and respectfully submitted,



Charles W. Steger
President

Cc: Montgomery County Public Schools School Board
Mr. F. Craig Meadows, Montgomery County Administrator
Ms. Brenda Blackburn, Montgomery County School Superintendent

The following citizens spoke in support of a new Blacksburg High School and urged the Board of Supervisors to reconsider their vote to repair the BHS. They asked the Board of Supervisors to accept the recommendations from the Montgomery County School Board to replace the Auburn High School, Auburn Middle School and Blacksburg High School:

Deborah Carlier
Doug Garnett-Deakin
Colin Baker
Stanley Mathes
Amy Mauldon
Eric Thomas
Scott Hill
Michelle Wilkins
Ron Flanary
John Phillips
Barbara von Clapareda-Crola
Heather Cowan
Matthew Repass
Jeff Mitchell
Kristi Snyder
Jay Wilkins
Scott Stosser
William Ducker

Georgia Ann Snyder-Falkehiem
Bryan Drum
Barbara Brady
Belinda Zhang
George Classom
Patricia Level
Dale Wimberley
Susanne Ducker
Jonathan Fleming
Mary Ann Bonado
Michael Hedgepeth
Waverly Eavens
Jamie De La Ree
Siti Salom
Particia Colatosi
Jim Pace
Traci McCoy
Gamine Kelly
Ellen Darden
Elizabeth Briggs
Carl Riggs
Brooke Stallings
Diane Gardner
Alice Gauldway
Charlotte von Clapareda-Crola
Alissa Leah
Karen Allison
Chris Jordan
John Shaw
Jason Calvert
Karen Gregg
Peter Lazar
David Duncan
Shelby Fortier
Rick Hayter
Brett Shadle

Jack Selcovitz believes it is a shame for people to come to a Board meeting only when an issue affects them. He believes they should be more involved in their local government and attend more meetings. Mr. Selcovitz also stated that a lot of comments directed to the Board of Supervisors regarding faulty facilities should be directed to the School Board, not the Board of Supervisors. He also suggested that Virginia Tech provide funding toward the construction of a new school.

Steve Fijalkowski supports the Board of Supervisors decision to repair Blacksburg High School. He believes the Board did consider the economic and State situation when making their decision and we should trust the Board's decision.

David Mitchell addressed the Board regarding the actions of the Chair at the end of the meeting on September 13, 2010.

Mike Peterson addressed the Board regarding the bond refunding listed on the agenda under New Business. Mr. Peterson asked if this refinancing is in regards to funding the repairs to the Blacksburg High School, and if so, to delay action until the Board receives additional information on the cost.

The County Administrator explained the Bond Refunding listed under New Business is to refinance a 2001 Bond and has nothing to do with the Blacksburg High School.

Randall English supports the Board of Supervisors' decision to repair the Blacksburg High School. Mr. English believes the Board is trying to maintain their good bond rating and asked what would happen if the County had \$300 million in bond debt. He doesn't think the County should go bankrupt to construct a new school when it can be repaired.

Blane Keesee stated new school construction is a community issue, not just a money issue. He believes the old Blacksburg Middle School property should be disposed of with the County and Town of Blacksburg working together to maximize the value of the property. The money from the sale of the property will be put back into school capital projects.

There being no further speakers, the public address session was closed.

CONSENT AGENDA

On a motion by William H. Brown, seconded by Mary W. Biggs and carried unanimously, the Consent Agenda dated September 27, 2010 was approved unanimously.

The vote on the foregoing motion was as follows:

AYE

John A. Muffo
Gary D. Creed
William H. Brown
James D. Politis
Mary W. Biggs
Doug Marrs
Annette S. Perkins

NAY

None

Schedule Public Hearing

**R-FY-11-27
A RESOLUTION SCHEDULING A PUBLIC HEARING
ON AN ORDINANCE PROVIDING FOR
APPLICATION AND DISPOSITION DEADLINES
FOR APPEALS FILED WITH BOARD OF EQUALIZATION**

On a motion by William H. Brown, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board of Supervisors hereby schedules a public hearing for Monday, October 25, 2010 at 7:15 p.m., or as soon thereafter, at the Montgomery County Government Center, 2nd Floor Board Room, 755 Roanoke Street, Christiansburg, Virginia to receive public comment on the following proposed Ordinance:

AN ORDINANCE PROVIDING APPLICATION AND DISPOSITION DEADLINES FOR APPEALS FILED BY PROPERTY OWNERS AND LESSEES WITH THE BOARD OF EQUALIZATION FOR THE PURPOSE OF HEARING COMPLAINTS OF INEQUALITY IN THE EQUALIZATION OF REAL ESTATE ASSESSMENTS AND/OR THAT REAL ESTATE IS ASSESSED AT MORE THAN FAIR MARKET VALUE

Appropriations and Transfers

**A-FY-11-30
SHERIFF
RECOVERED COSTS**

On a motion by William H. Brown, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2011, for the function and in the amount as follows:

320	Sheriff County	\$1,796
321	Sheriff County	<u>\$ 353</u>
	Total	\$2,149

The sources of the funds for the foregoing appropriation are as follows:

<u>Revenue Account</u>		
419108	Recovered Costs	\$1,796
419104	Confiscations	<u>\$ 353</u>
	Total	\$2,149

Said resolution appropriates recovered costs and monies received from the Department of Criminal Justice Services Asset Forfeitures.

A-FY-11-31
SHERIFF
DMV GRANT APPROPRIATION

On a motion by William H. Brown, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2011, for the function and in the amount as follows:

321 Sheriff Grants	\$61,370
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The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>	
424401 State Grants	\$61,370

Said resolution appropriates monies received from two DMV grants.

A-FY-11-32
FIRE FUND PROGRAM

On a motion by William H. Brown, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2011 for the function and in the amount as follows:

23311 Fire Program Fund Distribution	\$77,046
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The source of the funds for the foregoing appropriation is as follows:

<u>Revenue Account</u>	
424401 Fire Program Fund Distribution	\$77,046

Said resolution appropriates funds received from the Fire Program Fund for use by volunteer fire departments.

A-FY-11-33
SCHOOL CAPITAL PROJECTS
APPROPRIATE INTEREST FROM THE
QUALIFIED SCHOOL CONSTRUCTION BONDS
EASTERN MONTGOMERY ELEMENTARY SCHOOL

On a motion by William H. Brown, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the School Capital Projects Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2011, for the function and in the amount as follows:

19	Eastern Montgomery Elementary School	\$13,644
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The source of the funds for the foregoing appropriation is as follows:

Revenue Account

415102	Interest on Investments	\$13,644
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Said resolution appropriates interest earned on the Qualified School Construction Bond account for the Eastern Montgomery Elementary School.

A-FY-11-34
CHAMBER OF COMMERCE
REGIONAL TOURISM ADVERTISING
TRANSIENT OCCUPANCY TAX

On a motion by William H. Brown, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2011, for the function and in the amount as follows:

910	Regional Tourism	\$ 724
	Fish Virginia First	<u>\$ 500</u>
	Total	\$1,224

The source of the funds for the foregoing appropriation is as follows:

Revenue Account

02-451205	Designated Fund Balance	\$1,224
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Said resolution appropriates funds received from the increased 1% of transient occupancy tax earmarked for tourism to pay for the County's share of the 2010 Virginia Travel Guide Magazine ad and the Fish Virginia First (FVF) Partnership.

A-FY-11-35
ANIMAL CONTROL
FRIENDS OF ANIMAL CARE AND CONTROL
TRANSFER FROM GENERAL CONTINGENCIES

On a motion by William H. Brown, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that a transfer of appropriation is hereby authorized, as follows:

FROM:

950	General Contingencies	(\$8,000)
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TO:

910	Friends of Animal Care and Control	\$8,000
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Said resolution transfers funds from General Contingencies to Friends of Animal Care and Control.

R-FY-11-28
RESOLUTION AMENDING THE
BOARD OF SUPERVISORS MEETING DATES IN
NOVEMBER AND DECEMBER 2010

On a motion by William H. Brown, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia hereby schedules its first meeting in November on Wednesday, **November 10, 2010.**

BE IT FURTHER RESOLVED, The Board of Supervisors hereby cancels its second meeting in December due to the holidays.

NEW BUSINESS

R-FY-11-29 DEFER THE RESOLUTION TO REFUND THE ECONOMIC DEVELOPMENT AUTHORITY LEASE REVENUE BONDS SERIES 2001

On a motion by Gary D. Creed, seconded by William H. Brown and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board of Supervisors hereby defers the resolution to refund the Economic Development Authority Lease Revenue Bonds Series 2001 to their October 12, 2010 meeting.

The vote on the foregoing motion was as follows:

AYE

Gary D. Creed
William H. Brown
James D. Politis
Mary W. Biggs
Doug Marrs
John A. Muffo
Annette S. Perkins

NAY

None

R-FY-11-30 RESOLUTION TO REQUEST THE GENERAL ASSEMBLY AND GOVERNOR TO PROHIBIT ALL PREDATORY, USURIOUS LENDING PRACTICES IN THE COMMONWEALTH OF VIRGINIA

On a motion by William H. Brown, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, The Board of Supervisors of the County of Montgomery, Virginia represents the citizens of the County of Montgomery, Virginia; and

WHEREAS, The Board of Supervisors of the County of Montgomery, Virginia believes the citizens of Montgomery County remain concerned over what are perceived to be predatory, usurious lending practices in Montgomery County and elsewhere in the Commonwealth, including practices that can exploit dedicated, brave women and men called to serve in the United States armed services; and

WHEREAS, The Board of Supervisors of the County of Montgomery, Virginia shares these continuing concerns and intends through this Resolution to express the collective sentiments and will of Montgomery County citizens that the General Assembly and Governor of Virginia need to take action to prohibit all predatory, usurious lending practices; and

WHEREAS, It is essential that the General Assembly and the Governor of Virginia address this matter as a high priority at the next legislative session, leading to enactment of laws strictly prohibiting and deterring all predatory, usurious lending practices in the Commonwealth of Virginia.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that, at the next legislative session, the General Assembly and the Governor of the Commonwealth of Virginia are hereby requested to enact laws strictly prohibiting and deterring all predatory, usurious lending practices, including but not limited to provisions that would:

1. Impose an interest rate cap of thirty-six percent (36%), calculated as an effective annual percentage rate including all fees or charges of any kind, for any consumer credit extended in the Commonwealth of Virginia;
2. Prohibit a creditor's use of a personal check or other device as a means, directly or indirectly, to gain access to a consumer's bank account; and
3. Incorporate into the Virginia Code the protections regarding consumer credit to military personnel as reflected in the Military Lending Act, 10 United States Code Section 987.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
William H. Brown	None
James D. Politis	
Mary W. Biggs	
Doug Marrs	
John A. Muffo	
Gary D. Creed	
Annette S. Perkins	

R-FY-11-31
BOARD OF EQUALIZATION-REQUEST
TO CREATE AND RECOMMENDATIONS FOR APPOINTMENT

On a motion by Doug Marrs, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, That pursuant to Section 58.1-3370 of the Code of Virginia of 1950, as amended, the Board of Supervisors of Montgomery County, Virginia hereby requests the Honorable Robert Turk, Judge of the Circuit Court of Montgomery County, Virginia to create and appoint for Montgomery County a Board of Equalization of real estate assessments.

BE IT FURTHER RESOLVED, It is requested that the Board of Equalization consist of five (5) Landowners of the County.

BE IT FURTHER RESOLVED, By the Montgomery County Board of Supervisors, the following individuals are recommended to the Honorable Robert Turk, Judge of the Circuit Court of Montgomery County, for consideration and appointment to the Board of Equalization:

1. Louise Baker
2. Melvyn J. Huber
3. William Seitz
4. Curtiss Thornton
5. Phil Wickham

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
James D. Politis	None
Mary W. Biggs	
Doug Marrs	
John A. Muffo	
Gary D. Creed	
William H. Brown	
Annette S. Perkins	

R-FY-11-32
BOARD OF EQUALIZATION
ESTABLISH COMPENSATION

On a motion by John A. Muffo, seconded by Mary W. Biggs and carried unanimously,

BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia does hereby authorize payment to the members of the Board of Equalization (BoE) in the amount of \$150 per day.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Mary W. Biggs	None
Doug Marrs	
John A. Muffo	
Gary D. Creed	
William H. Brown	
James D. Politis	
Annette S. Perkins	

ORD-FY-11-02

AN ORDINANCE AMENDING CHAPTER 6 ENTITLED MOTOR VEHICLES AND TRAFFIC OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA BY ADDING SECTION 6-13 PROVIDING THAT A PERSON CONVICTED OF VIOLATING DUI, RECKLESS DRIVING, DRIVING WITHOUT A LICENSE OR OTHER SIMILAR PROVISION SHALL AT THE TIME OF SENTENCING OR IN A SEPARATE CIVIL ACTION BE LIABLE TO THE COUNTY OF MONTGOMERY OR TO ANY RESPONDING VOLUNTEER FIRE OR RESCUE SQUAD OR BOTH FOR RESTITUTION OF REASONABLE EXPENSES INCURRED BY THE COUNTY FOR RESPONDING TO ANY ACCIDENT OR INCIDENT RELATED TO SUCH VIOLATION INCLUDING EXPENSES INCURRED BY THE SHERIFF'S OFFICE OR BY ANY VOLUNTEER FIRE DEPARTMENT OR RESCUE SQUAD

On a motion by Doug Marrs, seconded by William H. Brown and carried unanimously,

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 6, entitled Motor Vehicles and Traffic, of the Code of the County of Montgomery, Virginia, shall be amended and reordained by adding Section 6-13 as follows:

Sec. 6-13. Reimbursement of expenses incurred in responding to DUI and related incidents.

(a) Any person convicted of violating any of the following provisions shall at the time of sentencing or in a separate civil action, be liable to the County or to any responding volunteer fire department or rescue squad, or both, for restitution of reasonable expenses incurred by the County for responding law enforcement, firefighting, rescue and emergency services, including those incurred by the Montgomery County Sheriff's Office, or by any volunteer fire department or rescue squad, or by any combination of the foregoing when providing an appropriate emergency response to any accident or incident related to such violation. Any person convicted of violating any of the following provisions shall, at the time of sentencing or in a separate civil action, be liable to the County or to any responding volunteer fire department or rescue squad, or both, for restitution of reasonable expenses incurred by the County when issuing any related arrest warrant or summons, including the expenses incurred by the Montgomery County Sheriff's Office or by any volunteer fire department or rescue squad, or by any combination of the foregoing:

1) The provisions of Section 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-266.1, 29.1-738, 29.1-738.02 or 46.2-341.24 of the Code of Virginia, 1950, as amended, or any succeeding sections thereof, or a similar ordinance, when such operation of a motor vehicle, engine, train or watercraft while so impaired is the proximate cause of the accident or incident which required the response of the Montgomery County Sheriff's Office, fire, rescue or other emergency services.

2) The provisions of Article 7 (Section 46.2-852 et seq.) of Chapter 8 of Title 46.2 of the Code of Virginia, 1950, as amended, or any succeeding sections thereof, relating to reckless driving, when such reckless driving is the proximate cause of the accident or

incident which required the response of the Montgomery County Sheriff's Office, fire, rescue or other emergency services.

3) The provisions of Article 1 (Section 46.2-300 et seq.) of Chapter 3 of Title 46.2 of the Code of Virginia, 1950, as amended, or any succeeding sections thereof, relating to driving without a license or driving with a suspended or revoked license, which required the response of the Montgomery County Sheriff's Office, fire, rescue or other emergency service.

4) The provisions of Section 46.2-894 of the Code of Virginia, 1950, as amended, or any succeeding sections thereof, relating to improperly leaving the scene of an accident which required the response of the Montgomery County Sheriff's Office, fire, rescue or other emergency services.

(b) Personal liability under this section for reasonable expenses of an appropriate emergency response pursuant to subsection (a) shall not exceed \$1,000 in the aggregate for a particular accident, arrest or incident. In determining the "reasonable expense", the County or volunteer fire department and or rescue squad may bill a flat fee of \$350 or a minute by minute accounting of the actual costs incurred. As used in this section, "appropriate emergency response" includes all costs of providing law enforcement, fire fighting, rescue and emergency medical services. The Court may order as restitution the reasonable expenses incurred by the County for responding law enforcement, fire fighting, rescue and emergency medical services. The provisions of this section shall not preempt or limit any remedy available to the County or to any volunteer rescue squad to recover the reasonable expenses of an emergency response to an accident or incident not involving impaired driving, operation of a vehicle or other conduct as set forth herein.

The vote on the foregoing ordinance was as follows:

<u>AYE</u>	<u>NAY</u>
Doug Marrs	None
John A. Muffo	
Gary D. Creed	
William H. Brown	
James D. Politis	
Mary W. Biggs	
Annette S. Perkins	

R-FY-11-33
RESOLUTION OF APPRECIATION
BARRY B. ROBINSON-ANR HORTICULTURE AGENT

On a motion by James D. Politis, seconded by Mary W. Biggs and carried unanimously,

WHEREAS, Virginia Cooperative Extension programs include Agriculture and Natural Resources (ANR) programs that are directed toward a broad range of needs associated with the

production of animals, food crops, financial management of agricultural enterprises, and the protection of the environment; and

WHEREAS, Barry B. Robinson has been employed as Montgomery County's ANR Horticulture Agent since 2004; and

WHEREAS, His performance of the duties and responsibilities as Montgomery County's ANR Horticulture Agent has been characterized by excellent and constructive contributions to our entire community; and

WHEREAS, One characteristic that distinguished **Barry B. Robinson's** career as a public servant was his enormous capacity for hard work, which demonstrated in many practical ways his deep and genuine devotion to our community and the surrounding areas.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby expresses heartfelt appreciation and sincere thanks to **Barry B. Robinson** for his valuable service and dedication to the citizens in our community, and best wishes for continued success in all his future endeavors.

BE IT FURTHER RESOLVED, That the original of this resolution be presented to **Barry B. Robinson** and that a copy be made a part of the official minutes of Montgomery County.

The vote on the foregoing resolution was as follows:

AYE

John A. Muffo
Gary D. Creed
William H. Brown
James D. Politis
Mary W. Biggs
Doug Marrs
Annette S. Perkins

NAY

None

COUNTY ATTORNEY'S REPORT

The County Attorney reported that a second amendment to the Real Estate Agreement with R.P. Fralin Holding Company, LLC is needed in order to extend the closing date and reduce the purchase price. The extension of the closing date is to allow the current tenant to remain until their lease expires in April 2011.

R-FY-11-34
SECOND AMENDMENT TO
REAL ESTATE SALES AGREEMENT
R.P. FRALIN HOLDING COMPANY, LLC

On a motion by Gary D. Creed, seconded by John A. Muffo and carried unanimously,

BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board hereby approves the Second Amendment to the Real Estate Sales Agreement between R. P. Fralin Holding Company, L.L.C. and the County of Montgomery, Virginia dated September 27, 2010 extending the closing date to April 1, 2011 and reducing the purchase price to \$145,000.

BE IT FURTHER RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board of Supervisors hereby authorizes Annette S. Perkins, Chair, to execute said Amendment on behalf of the County of Montgomery, Virginia.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
Doug Marrs	None
John A. Muffo	
Gary D. Creed	
William H. Brown	
James D. Politis	
Mary W. Biggs	
Annette S. Perkins	

COUNTY ADMINISTRATOR'S REPORT

The County Administrator reported on the following:

Legislative Priorities for 2011 – A copy of the Board's Legislative Priorities for 2010 and a draft of new priorities to be included were provided to the Board for review. The County Administrator requested the Board look over the priorities and send any recommendations or changes to staff. A proposed resolution with the Board's Legislative Priorities for 2011 will be listed on the next agenda for the Boards consideration.

BOARD OF SUPERVISORS' REPORTS

Supervisor Creed - Qualified School Construction Bonds for School Energy Improvement Projects – Blacksburg High School Supervisor Creed requested information on what Energy Improvement Projects were planned at the Blacksburg High School and the cost of each project.

School Board Meeting – September 23, 2010 Supervisor Creed noted that he attended the School Board's meeting on September 23, 2010 but left after finding out that no new information was going to be presented on the Blacksburg High School facility.

Supervisor Creed made the following comments on his decision to support repairing the BHS:

- The Board of Supervisors was informed by the School Board on several occasions that the BHS could be repaired and made safe.
- According to the County's financial advisor, if the County issues bonds now for new construction, the County will not be able to borrow any additional money for 10 years. What would happen if another disaster occurred within the 10 year time frame? This would bankrupt the County.
- A new school will take up to four years to build. A child in the 8th grade now would have a slim chance of attending a new school.
- He received a lot of e-mails from Blacksburg residents who support the repair of the BHS. He acknowledged the large audience in attendance tonight in support for a new school; however, he stated that just that many or more people sent e-mails urging the Board to repair BHS.

Supervisor Creed addressed the letter sent to the Board from Virginia Tech President Steger. He stated that if education facilities in Blacksburg are so important to Virginia Tech's recruiting process then they need to help find ways to raise revenue in the County, such as adding a one dollar fee to tickets for sporting event. If this is done then the County could have a new school. He also stated that if a new school is an important issue to the Blacksburg community and showing up at the Board meetings in mass then they need to attack the issue of adding the one dollar fee to the tickets sold at Virginia Tech. This would generate the revenue needed without bankrupting the County.

Supervisor Creed commented that the County needs an additional \$10 million for renovation of the Sheriff's Office and Jail. This is another project that has to be done and the County has to find a way to fund the project.

Supervisor Creed stated he reviewed the School Board minutes when the School Board members discussed their options regarding school capital projects and voted on sending a resolution to the Board of Supervisors requesting \$125 million. He noted that several School Board members voiced concerns but voted a different way. Supervisor Creed asked what should the Board of Supervisors believe if they say one thing but vote another way. He believes there is a lot of misinformation floating around, such as the latest cost estimate to repair the BHS is \$50 million.

Supervisor Creed stated he made the motion to repair the BHS and make it safe. He emphasized that if the school cannot be made safe 100%, then he agrees that the school should not be repaired. He stated he welcomes all information regarding the BHS. He will not vote to rescind the resolution adopted by the Board of Supervisors on September 13, 2010, but he is willing to listen.

EXTEND THE MEETING – 11:25 p.m.

On a motion by Mary W. Biggs, seconded by William H. Brown and carried unanimously, the Board agreed to extend the meeting beyond 11:30 p.m.

The vote on the foregoing motion was as follows:

<u>AYE</u>	<u>NAY</u>
Gary D. Creed	None
William H. Brown	
James D. Politis	
Mary W. Biggs	
Doug Marrs	
John A. Muffo	
Annette S. Perkins	

BOARD REPORT'S CONTINUED

Supervisor Brown expressed his appreciation for citizen comments. He explained that comments made during the Public Address Session tonight that the Board of Supervisors doesn't care about the children and citizens of Montgomery County are wrong. The Board of Supervisors supports education and included education as top priority every year.

Contrary to accusations of illegal meetings and "back room deals", Supervisor Brown assured everyone that no illegal meetings were held, and no "back room deals" were made, the decision he made was his own.

Supervisor Brown said he will make a motion to reconsider the Board's vote for two reasons 1) The way the Board of Supervisors voted to repair the BHS was done in a legal manner even though it was not included on the agenda , and 2) he believes the Board needs to take a step back and receive additional information. He wants to make it clear he may not change his vote but this will allow for more information to be received and reviewed.

R-FY-11-35
RESOLUTION TO RECONSIDER VOTE TAKEN AT THE
SEPTEMBER 13, 2010 BOARD OF SUPERVISORS MEETING
TO REPAIR THE BLACKSBURG HIGH SCHOOL

On a motion by William H. Brown, seconded by John A. Muffo and carried,

BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia that the Board of Supervisors hereby agrees to reconsider their vote taken at their September 13, 2010 meeting to repair the Blacksburg High School in order to receive additional information on this issue.

The vote on the foregoing resolution was as follows:

<u>AYE</u>	<u>NAY</u>
William H. Brown	Gary D. Creed
James D. Politis	
Mary W. Biggs	
Doug Marrs	
John A. Muffo	
Annette S. Perkins	

Supervisor Muffo explained he seconded the motion due to the fact that the Board of Supervisors does not have all the information. He expressed frustration with the fact that information changes from day to day. He talked to the Engineers one day and it is \$15 million to repair BHS, the next day they changed it to \$25 million and as of today it's \$50 million. He believes that they do need more information; however, he doesn't think they will ever receive all the information that is needed. He wants to make it clear that just because the Board is going to reconsider their vote doesn't mean that there is \$110 million available for school construction. He believes that the resolution to reconsider takes the County back to square one.

BOARD REPORT'S CONTINUED

Supervisor Brown asked if the County had a cable franchise with Comcast. The County Administrator replied the County does not have a cable franchise.

Supervisor Brown reported a vehicle crashed into a house and utility lines were knocked down across the road. APCO and Verizon responded immediately but Comcast did not respond. Traffic was detoured for three hours waiting on Comcast and finally the Sheriff's office cut the cable. Public Safety personnel would like to know who to contact when a situation like this occurs.

Supervisor Muffo also commented that there are numerous problems with Comcast.

Supervisor Marrs expressed his appreciation for citizens coming out and voicing their concerns to the Board. He commented that he wanted everyone to know that there was no “back room deal” on their actions at the September 13, 2010 meeting by voting on the Blacksburg High School issue.

He explained that he had the opportunity to tour the BHS facility and talked to the engineers at length and asked repeatedly if the school could be repaired and made safe. One of the engineers even stated he would feel confident sending his child back into the school. Supervisor Marrs stated he would not put any child in harms way.

Supervisor Marrs stated he does appreciate citizens taking their time to attend the Board meetings but he has also heard from numerous people who support repairing BHS. He believes the Board of Supervisors has to consider the entire county and remember those who cannot afford any type of tax increase. He stated he is willing to listen but as of right now he has not heard anything that would change his vote.

Supervisor Biggs expressed her appreciation to the other Board members for reconsidering the Board’s vote on the Blacksburg High School issue. She believes there are numerous issues that need to be addressed before a vote could be taken, such as lack of citizen input, the need to explore all financial options, what is the final cost of repairing, and continue talks with Delegate Jim Shuler about tax relief.

Supervisor Biggs reported she attended the School Board’s September 23, 2010 meeting. She said it was important to hear from the engineers and see their presentation. She believes there are still a lot of questions regarding the Blacksburg High School site.

Library Board – The Library Board has sent an invitation to the Board of Supervisors to attend their October 20, 2010 meeting.

Eastern Montgomery Elementary School held their dedication on September 23, 2010, which she enjoyed immensely.

Supervisor Politis stated he voted to reconsider the Board’s vote on the Blacksburg High School issue because he wants to hear the bottom line.

E-Commerce – Treasurer’s Office - Supervisor Politis reported he received an email from the Treasurer about positions being eliminated in his office due to state budget cuts. Supervisor Politis asked staff to look into the use of e-commerce (on-line bill pay) to determine if there could be possible savings to help pay for positions.

Supervisor Muffo commented that he is looking forward to moving ahead; however, he wants to make it clear that raising county taxes is not going to happen. They are going to have to have some creative thinking to raise money. He believes that this process is not going to happen fast as there are multi-steps in the process to make any progress at all.

Supervisor Creed commented that one lady who spoke tonight provided figures for constructing a new high school for \$35 million. He suggested that the Board request additional information from her.

Supervisor Perkins commented that the Board of Supervisors may sometimes disagree but are not disagreeable. They do what is best for the County. She expressed her appreciation to the citizens for attending and voicing their viewpoints. She stated she understands citizens concerns for the safety of their children. She believes the Board made the right decision to reconsider their vote and thanked the Board.

Eastern Montgomery Elementary School –attended the ribbon cutting which was a wonderful program and beautiful school.

ADJOURNMENT

The Board adjourned to Tuesday, October 12, 2010 at 6:00 p.m.

The meeting adjourned at 12:00 a.m., Tuesday, September 28, 2010.

APPROVED: _____	ATTEST: _____
Annette S. Perkins	F. Craig Meadows
Chair, Board of Supervisors	County Administrator